

**FILED**

**NOV 19 2007**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ERIC D. JOHNSON,

Plaintiff - Appellant,

v.

MEG SAVAGE, Operations Director sued  
in individual capacity; SAM SUBLETT,  
warden sued in individual capacity; M.  
MCKEE, Deputy Warden sued in  
individual capacity; F. VALDEZ; JOHN  
DOES; JANE DOES, sued in individual  
capacities; P. SWANSON; S. CRUZ;  
DORA B. SCHRIRO, Director,

Defendants - Appellees.

No. 05-16463

D.C. No. CV02-00898-DGC/ECV

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Arizona

David G. Campbell, District Judge, Presiding

Argued and Submitted October 16, 2007  
San Francisco, California

Before: BRUNETTI, W. FLETCHER, and CLIFTON, Circuit Judges.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

Eric Johnson appeals the district court's grant of summary judgment. We affirm.

Johnson presents three claims on appeal. He first argues that the conditions of confinement he endured during the August 2001 prison disturbances violate the Eighth Amendment. He has not produced any evidence that he suffered the type of deprivation serious enough to constitute an Eighth Amendment violation. Johnson also has no evidence of a culpable state of mind of any Defendant, and he admitted he only sued Defendants because they were "in the chain of command." *See Johnson v. Lewis*, 217 F.3d 726, 732 (9th Cir. 2000).

Second, Johnson argues that he suffered medical mistreatment during and after the disturbances. The minor delay in his medication and the tightness of the plasti-cuffs had legitimate penological justifications and did not cause him serious harm. Further, Johnson again fails to draw any connection between his treatment and the named Defendants. *See Frost v. Agnos*, 152 F.3d 1124, 1129-30 (9th Cir. 1998).

Finally, Johnson argues that he was denied the ability to conduct adequate discovery and that the district court improperly granted summary judgment because he had an outstanding Rule 56(f) application. The record demonstrates

Johnson's failure to take advantage of discovery opportunities in a timely and diligent manner. *See Jones v. Blanas*, 393 F.3d 918, 930 (9th Cir. 2004).

**AFFIRMED.**